

REMARKS

Claims 1-6, 8-16, 18-21 and 22-29 are pending in the present application. Applicants respectfully request reconsideration of the present claims in view of the following remarks.

I. Prior Art Rejections:

Rejections under 35 U.S.C. § 103(a)

Claims 1-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,432,547 to Kroll *et al.* (hereafter "Kroll"). This rejection is respectfully traversed.

Claim 1 is directed to, *inter alia*, a film comprising a biodegradable polymer; and a water soluble polymer, wherein the film is breathable and has a water vapor transmission rate greater than about 1500 g/m²/24hrs, further wherein the film is wettable and has an elongation at break of greater than about 100%.

Kroll is directed to a film formed from a blend of a resin with a water-soluble polymer. The film formed from this blend has a degree of breathability as a result of the materials used as no additional process steps are used to process the film once it has been formed.

It is respectfully submitted that Kroll fails to teach or suggest Applicants' claimed invention. Applicants' claimed invention provides a film that is highly breathable, porous and wettable. This is achieved through a cellular morphology of the films that results during film formation. Kroll fails to teach or suggest Applicants' claimed invention as Kroll is simply directed to a film comprising two polymers mixed together. This film has low breathability and low elongation-at-break. However, Applicants' claimed films are made by forming a precursor film comprising two polymers mixed together and then taking this precursor film and forming the precursor film into the claimed film by additional processing steps. As such, Applicants' claimed films have breathability and elongation-at-break characteristics that are not taught or suggested by Kroll since Kroll does not teach or suggest Applicants' processing steps to achieve the final films. The Examiner alleges that the patentability of a product does not hinge on its method of production. While it is true that process steps carry little weight in determining the

patentability of a product, these process steps cannot be simply ignored when the resulting product has characteristics that are claimed and are not taught or suggested by the prior art of record. The precursor films of the present invention are not taught or suggested by Kroll as these films have breathability and elongation-at-break characteristics that result from the additional steps the precursor films are subjected to, steps that Kroll fails to teach or suggest. As such, Kroll fails to teach or suggest Applicants' claimed invention.

In addition, the Examiner alleges that Applicants' claimed elongation-at-break is simply a process optimization that may be achieved without undue experimentation without providing any basis for supporting this position. Applicants' films are wettable and are formed by stretching while the film is contacted with water or another solvent in some manner. As shown in the Specification, the contact with water may occur by etching with water or a solvent; by contacting with water or a solvent; or by swelling with water or a solvent and then freezing and drying. These steps achieve a porous precursor film that is then used to form the claimed films having the breathability and elongation-at-break characteristics that are not taught or suggested by Kroll. These breathability and elongation-at-break characteristics are not simply a matter of design optimization as without these steps, the films would not have the desired characteristics. As such, simply mixing a biodegradable resin with a water-soluble resin and forming into a film (Kroll) will not achieve the desired characteristics as this does not result in a porous precursor film. Accordingly, even if the films in Kroll were stretched, this stretching alone would not generate Applicants' claimed characteristics. Stretching of the film does not generate pores when no pores are present. Stretching can increase breathability if pores or void areas exist in the unstretched film. The porous nature of Applicants' claimed films enhances the elongation-at-break of these films and permits the films to be stretched even further than the films made by Kroll. As such, since Kroll fails to teach or suggest Applicants' additional processing steps, and since these processing steps result in films having higher breathability and elongation-at-break characteristics, which are claimed, it is respectfully submitted that Kroll fails to teach or suggest Applicants claimed films.

For at least the reasons given above, Applicants respectfully submit that Claim 1 is allowable over the art of record. Furthermore, since Claims 2-11, 14-21 and 24-29 recite additional claim features and depend from Claim 1, these claims are also allowable over the art of record. Accordingly, Applicants respectfully request withdrawal of this rejection.

II. Conclusion:

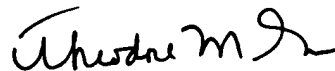
For at least the reasons given above, Applicant submits that Claims 1-6, 8-16, 18-21 and 22-29 define patentable subject matter. Accordingly, Applicant respectfully requests allowance of these claims.

The foregoing is submitted as a full and complete Response to the Final Office Action mailed March 17, 2003, and early and favorable consideration of the claims is requested.

Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is respectfully requested to contact Applicant's representative at the telephone number listed below.

No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



Theodore M. Green
Reg. No. 41,801

KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530
404/815-6500
Attorney Docket No.: 11302-0820
Attorney File No.: 44040-228353
K-C No. 15,442